UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1996/NGO/77
2 April 1996

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-second session
Agenda item 11

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS

Written statement submitted by the International Indian Treaty Council, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[2 April 1996]

1. The International Indian Treaty Council addresses the problem of migrant workers and their families, as a great many migrant workers, especially migrants in the United States, are indigenous peoples.

2. In the 1970s, most migrant workers arriving in the United States came from Mexico. For the past 15 years, however, large numbers of indigenous peoples from deep in the interior of Mexico, particularly from the States of Oaxaca, Guerrero and Puebla have come seeking work. They are members of the Zapoteca, Mixe, Mixteco, Nahua and Trique peoples. More recently Mayan Indians who were forced to flee war-torn Guatemala starting in the early 1980s have come North. California has 40,000 Mixtecos alone, and all indications are that United States bound migration by indigenous peoples continues to increase.

3. Language barriers have been detrimental to many of these indigenous peoples. The judicial system assumes that Mexicans and Guatemalans automatically equate to fluency in Spanish. Court interpreters have no knowledge of indigenous languages and dialects. Court administrators to keep cases on schedule make do with the Spanish interpreters on hand. The result is a real distortion of justice.

4. Some examples: A Trique man was confined to a psychiatric ward following a competency hearing at which he spoke "supposed babble". A Mixteco youth was convicted of murder, where Mixteco witnesses on his behalf responded to the Spanish court interpreter with "blank faces or wild non-sequiturs". At the trial, the defendant kept his eyes lowered during direct and cross-examination as is the custom for young Mixtecos when speaking to their elders. This was taken as a sign of guilt. In another case, a Kanjobal woman lost her child in a dependency hearing at which she could not get her full story across in Spanish.

5. Indigenous peoples are not received in "receiver" countries nor sent by "sender" countries. The reality is that they are fleeing intolerable situations in their homelands and are forced to migrate to the United States. The United States is known for its solicitation of and dependence on cheap and compliant labour in agriculture. Abuses in this system approach conditions of slavery.

6. Large-scale growers illegally import agricultural workers from the United States/Mexico border to labour camps in vehicles with standing room only. There has yet to be an internal or external investigation into this practice of unscrupulous growers by United States government agencies.

7. Deaths by pesticide poisoning continue. The infant mortality rate for babies born with anencephaly and toxins among migrant workers in the United States is rising. Infectious disease has doubled since the North American Free Trade Agreement (NAFTA) was passed and its undelivered promises were made. In fact, NAFTA has accelerated the problems. Migrant workers are still denied workers' compensation, unemployment and health insurance and the right to collective bargaining, although they pay taxes.

8. Growers hire immigrants with impunity in violation of United States law. They are rarely investigated and fined. In the State of California for example Sun Diamond Growers and E. & J. Gallo Winery contributed more than $190,000 each to California Governor Pete Wilson's campaign. Governor Wilson has opposed increasing fines for employers who knowingly hire undocumented migrant workers. He previously cut labour inspection budgets and twice vetoed bills that would hold manufacturers responsible for monitoring their sub-contractors compliance with labour and immigration laws. More recently in March of this year, he signed a bill blocking a scheduled ban on the pesticide methyl bromide, which has been linked to the poisoning of hundreds of farm workers.

9. Xenophobia is on the rise as a result of the successful anti-immigrant campaign of politicians like the Governor of California, Pete Wilson, and other elected officials, who have used immigrants as scapegoats for economic ills, thus shaping the American public view towards racial intolerance. This

misinformation campaign approaches low-intensity conflict. The climate of racial violence has worsened abusive practices of local police, border patrol and immigration officers. The United States Attorney General Janet Reno increased the border patrol in 1995 despite budget cuts and the federal government claims of being broke.

10. Other patterns of abuses and human rights violations include beatings, rape, murder, unwarranted strip searches, illegal seizure and destruction of property and identification documents, violations of due process, racist verbal abuse, arbitrary detention, deliberate separation of families, denial of food, water and medical attention while in custody and criminalizing family reunification. These patterns of abuse and violations are well documented by numerous border rights and refugee rights groups. All are at the hands of border patrol, custom agents and immigration officials.

11. Aside from the fact that the right of indigenous peoples to cross the United States/Mexico border freely and without interference was guaranteed by the Treaty of Guadalupe Hidalgo, migrant labourers pay taxes contributing millions to the national and local budgets. Further abuses and violations arise when other indigenous peoples fleeing dangerous situations in their homelands of Haiti, the Dominican Republic, El Salvador and Nicaragua are many times indentured as servants within the United States borders.

12. We listened with great interest to the United States delegation's statement with regard to racial discrimination. What was not mentioned was the current trend in the United States to enact immigration legislation that is discriminatory in nature, targeting dark skinned indigenous peoples called migrants and favouring immigrants of Canadian and European extraction. In 1990, a lottery was instituted that reserved 40 per cent of permanent residents slots for Irish nationals. In California alone, over 50 anti-immigrant bills were introduced into the 1993 legislative assembly, in what has been aptly termed by the press as "anti-immigrant hysteria".

13. This anti-immigrant hysteria is fanning xenophobic flames. It has affected citizens of the United States, who are targeted solely on their ethnic appearance. The racist mentality is present in the new border agents who now feel that racism is a standard qualification of their job description. This is the scourge of the citizenry referred to by the United States delegation's statement. Nowhere in the United States are the borders maintained with such a high level of militarization as conducted in the southern perimeter, along the border with Mexico.

14. The IITC delegation cites these human rights violations under United States immigration policy and law, as it discriminates based on race and national origin, in violation of articles 2, 16 and 26 of the International Covenant on Civil and Political Rights, and articles 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination. Migrants are subject to violence and harassment, denied asylum, public health, education and other protection and services in violation of articles 2, 9, 12, 13, 16, 17 and 20.2 of the International Covenant on Civil and Political Rights, and articles 2, 4, 5 and 7 of the

International Convention on the Elimination of All Forms of Racial Discrimination. This is also a violation of articles 1, 2, 6 and 7 of the Universal Declaration of Human Rights.

15. In the case of migrant workers in Guatemala, violations of human rights occur daily. Almost a million migrant workers and their families migrate from their communities in the north-western highlands to the cotton, cane, coffee and banana plantations on the south coast and in the east of the country.

16. They are transported in trucks and trailers without the minimum conditions in unsafe and unhealthy conditions in violation of their dignity as human beings, many times enduring hunger and cold, among them women and children.

17. At the plantations they are housed in barns and stables, built by the owners originally for their animals. Workers are forced to live without sanitation facilities, drainage, medical services and potable water. They lack the financial resources for primary articles of necessity.

18. They work 10, 12 and 14 hour days. Salaries they receive are hunger and death for on a daily basis they are assassinated by lack of food, malnutrition, lack of rest, services and other essential necessities of life. The owners hide behind overtime rules and there is no one to protect their rights. An even greater inequity; children and women are paid half or less of the already poor wages. It is a situation of grave violations of the rights of internal migrant workers of Guatemala.

19. The IITC calls upon States to sign, ratify and apply the International Convention on the Protection of the Human Rights of All Migrant Workers and Members of Their Families and International Labour Organization Convention Nos. 98 on the right to collective bargaining and 169 on indigenous and tribal peoples in independent countries, so that the right to life and human dignity begin to be respected and the practice of real respect for human rights be initiated.